The Legal News.

Vol. VII. MARCH 15, 1884. No. 11.

THE LAW OF EVIDENCE.

The bill introduced by Mr. Cameron (Huron) to permit persons accused of certain offences to testify in their own favour, was defeated by a very narrow majority, on the motion of Mr. Bossé that the committee should rise. It should be a source of satisfaction to the Bar of this Province to know that one of its members had taken the initiative in stopping so foolish a measure. It is difficult to conceive on what grounds so large a number of members were induced to concur in so important a change in the law of evidence. The public has a right to know on what statistical information Mr. Cameron relies for suggesting this alteration. If he has none, then we may fairly conclude that he is seeking change for the sake of change, or of notoriety. Mr. Robertson (Hamilton) takes a higher flight, and dogmatises on the discovery of truth. The preamble of his bill assumes that "the discovery of truth in courts of justice has been signally promoted by the removal of restrictions on the admissibility of witnesses." We presume Mr. Robertson means by this to say, that the admission of the testimony of interested parties promotes the discovery of truth. The proposition does not carry with it an air of probability, and we think it would rather puzzle the learned legislator to find any authority to support his statement. From every direction, we hear the cry that perjury is on the increase, and this result coincides with the previsions of every nation in the world. If Mr. Robertson's observation be true, then all persons should be admitted to testify in Courts of Justice under the same sanctions they gossip with their neighbour, on the wide principle lately contended for by Mr. John Bright, that people should not be taught by the law to believe that there are two kinds of truth. With superficial observers like Mr. Robertson and philosophers like Mr. Bright, civilization is in as great peril as it ever was when assailed by the barbarians. The dogmatic crudity of Mr. Robertson's preamble is introductory to the following provision: "If any person called to give evidence in any criminal proceeding, or in any civil proceeding, in respect of which the Parliament of Canada has jurisdiction in this behalf, objects to take an oath, or is objected to as incompetent to take an oath, such person shall, if the presiding judge is satisfied that the taking of an oath would have no binding effect on his conscience, make the following solemn promise and declaration." In other words, any person who is not credible under oath, shall be believed under affirmation. Perhaps Mr. Robertson may find occasion before the end of the Session, to add to our knowledge of ethical science, by explaining how an affirmation can bind a conscience, which is insensible to the obligation of an oath. R.

THE SEDUCTION BILL.

Mr. Charlton with a persistence worthy of a better object, has once more brought before the Legislature his bill "to provide for the punishment of seduction and like offences." The report of proceedings in the House of Commons a few days ago indicated that the bill had been modified so as to remove the clauses to which objection has been taken; but a later report showed that one of these clauses had been restored in Committee. The clause referred to is in these terms:

"1. Any man who shall under promise of marriage seduce any unmarried female of previously chaste character, and not more than 21 years of age, shall be guilty of a misdemeanour, and shall be punished as hereinafter provided."

This provision is suggested by an erroneous view of morality. When a woman barters her virtue for a promise of marriage she has already ceased to be a "chaste character." If she yields at the first temptation we may sympathize with her in her fall, and we may condemn the seducer, or, it may be, the participator in an offence of which the guilt is evenly balanced. But that the law in either case, or under any circumstances, should come to her aid, to enable her to extort the fulfilment of a corrupt contract, is a totally different matter. Even admitting that such

an enactment might in a few cases accomplish a rough sort of justice, shall the safeguards of female purity be removed and the descent into vice be rewarded and encouraged from mere sentimental considerations? Women under 21 are often more mature than those of the opposite sex whom they allure, but who in this bill are treated as the only offenders. There is no limitation of age on the side of the male. A woman of 20 may figure as the prosecutor of a verdant youth of 17 or 18. There was a case of rape a few days ago before our Courts, in which the complainant was a girl of only 13. Yet it appeared on cross-examination that she was a consenting party to the connection; the prosecution was an afterthought; and the medical evidence indicated that she had lost her virginity at a period long antecedent to the date of the alleged crime. Such girls ripen fast in profligacy, and they would have ample time before the age of 21 to entrap a victim with the convenient aid of the Seduction Act. It might possibly be difficult to prove the previous unchastity, yet in reality they are as the women "whose lips drop as an honeycomb and whose mouth is smoother than oil."

No good practical result can come out of such a law. When its aid is invoked by *soi-disant* "chaste characters" the mischievous tendency of the provision will be more apparent to the public mind. We look, however, to the Senate to give the measure its quietus, if it gets so far. The Minister of Justice, it will be remembered, last year spoke vigorously against the bill, and quoted from letters which he had received from some of the most eminent judges in Canada, protesting against the legislation contemplated. The Senate will doubtless be slow to disregard the deliberate opinion of those who have had the greatest experience in administering the criminal law.

U. S. LEGAL JOURNALISM.

Like the lean kine in Pharaoh's dream, the *Southern Law Review*, which was only a bi-monthly, is eating up its contemporaries, which from their rank as monthlies may be likened to the fat kine. First, the *American Law Review* in the "Hub" of the far north was gathered in, the devourer, however, taking the name of the devoured. Now the *Western Jurist*, of Iowa, is absorbed and completes a trinity. Our anthropophagous contemporary even hints at further engorgements. "Perhaps the *Montreal Legal News* would like to open negotiations with "us," is the insinuating style of our contemporary's address. We feel flattered, but we think not. We prefer the calm skies and sunny slopes of our native haunt, our regal mountain, to the cyclones, floods and tornadoes of the far West,—not to mention those little death-dealing instruments, which lie hidden in hip-pockets, ready to be used against guileless editors who have more candor than complaisance. Seriously, however, we heartily congratulate our contemporary upon his prosperous—we won't say "bloated"—appearance. There are three times as many good things as of old, and we may, as a far-away outsider—an Arctic bear or anything else you choose—say that the *American Law Review*, the *Albany Law Journal*, the *Criminal Law Magazine*, and one or two more, are a credit to the profession. There can be no doubt that the atmosphere of the law is all the clearer and purer for a good stamp of journalism. Editors sitting in their chairs may help to frighten away a great deal that is mean and sordid and pettifogging. And more than that, it is true to some extent that they hold, so to speak, the magic wand which vivifies the dry bones of the law, and imparts a savour to what would sometimes be as unpalatable, to borrow an old simile, as "sawdust without butter."

NOTES OF CASES.

COURT OF QUEEN'S BENCH.

[Crown Side.]

MONTREAL, March 6, 1884.

Before RAMSAY, J.

THE QUEEN v. ALEXANDER MAHER.

Neglecting to provide wife with necessaries—Evidence—32-33 *Vict.* (*Can.*), *cap.* 20, *sect.* 25.

1. *On trial of husband for neglecting to provide wife with necessaries, the evidence of the wife is admissible on behalf of the Crown.*

2. *The words in sect. 25 of 32-33 Vict., cap. 25, "so that the life of such apprentice or servant is endangered, or the health of such apprentice or servant has been, or is likely to be, permanently injured," must be read as applying to the "wife, child, ward, lunatic or idiot," mentioned in the first part of the section, notwithstanding that in the repetition of the enumeration "apprentices or servants" are alone mentioned.*

The prisoner was indicted for neglecting to provide for his wife the necessaries of life.

Esther Desormeau, wife of the prisoner, was brought up as a witness on behalf of the Crown. On the part of the prisoner her evidence was objected to.

RAMSAY, J. I have to decide as I did the other day in the case of *Gauthier*, who was not defended, that the evidence of the wife is admissible, as it seems to me that the section of the Act under which the prisoner is indicted (32 & 33 Vic. c. 20, s. 25) must be considered as creating a constructive assault. It appears, however, that the Courts in Ontario have arrived at a different conclusion, and if the case results in a verdict of guilty I shall reserve the point.

The woman's evidence was then proceeded with.

The Crown case being closed, Mr. *Prefontaine*, the counsel for the prisoner, submitted that there was no case to go to the jury, inasmuch as there was no evidence of destitution of such a nature as to endanger or be likely to endanger the health of the complainant.

Davidson, Q.C., for the Crown, said that if the last portion of the section, "so that the life of such apprentice or servant is endangered, or the health of such apprentice or servant has been, or is likely to be, permanently injured," is to be considered as applying to the whole of the offences mentioned in section 25, the indictment, which is drawn according to the form usually employed in this Court, is insufficient. He directed the attention of the Court to the fact that the French version, by its punctuation, seemed to make these words applicable only to the offence against the apprentice or servant.

RAMSAY, J. The question now raised has not come under my notice for the first time, and therefore I am prepared to express my opinion at once. It seems to me that section 25 sets forth varieties of a new offence which are all controlled by the words referred to by the learned counsel for the Crown. This is the natural construction of the sentence, for it is followed by words which are necessarily applicable to all that goes before, the quality of the offence and its punishment. The sense also indicates this, for if these words do not apply to the first part of the sentence as well as to the last, we should have the actual doing of bodily harm made innocent, unless there was the likelihood of its doing permanent injury, while the refusal or neglecting to provide the necessaries of life alone would be an offence: that is to say, an act of omission would be more readily considered to be criminal than an act of commission. Of course I observe that in the repetition of the enumeration of the persons who may be the subjects of these offences, apprentices and servants are alone mentioned, but I think they are mentioned as representatives of the class fully enumerated before, and the Statute saying "*such* apprentice or servant," the others are to be understood.

I attach no importance to the difference of punctuation between the French and English versions, for two reasons—1st, This Statute is borrowed almost textually from an English Act; and 2ndly, the smaller divisions of punctuation are a very slender guide to interpretation.

In addition to this, I think that without these words in the Statute, it would be necessary to prove such a deprivation of the necessaries of life as would amount to a constructive assault. It surely could not be intended to say that a man must be obliged to establish in a criminal court some lawful excuse each time he refuses to give his wife such food, clothing or lodging as she might choose to demand. In this case there is no evidence of destitution at all. It amounts to this, that the first witness was refused money by her husband at Longueuil, where he was engaged at work, and where she followed him. That she went back to her sisters, and there refused to eat either at dinner or supper, although food was offered to her—that since that time she has lived as

she had done all her life, that is, as a labouring woman. I shall direct the jury to acquit the prisoner on the ground that the indictment is insufficient.

It is very fortunate that the case has been brought up in its present form, for there was evidently no further evidence to support the indictment if otherwise framed, and it permits of the Court dealing with the matter of law which it is important to consider.

C. P. Davidson, Q.C., for the Crown.

Prefontaine, for the prisoner.

COURT OF REVIEW.

MONTREAL, November 30, 1883.

Before TORRANCE, DOHERTY & RAINVILLE, JJ.

BELLHOUSE v. LAVIOLETTE.

Master and servant—Responsibility of master for negligence of servant.

The rule which makes a master responsible for the negligence of his servant does not apply where the servant at the time is absent from service and is engaged about his own affairs.

The judgment brought under Review was rendered by the Superior Court, Montreal, Loranger, J., Sept. 13, 1883.

The action was to recover damages for injury done to the plaintiff's horse by the defendants' servant, in a collision of two sleighs, one driven for plaintiff by one Macgregor, the other driven by Alfred Cypiot, the servant of defendants. The defendants were condemned to pay $110.

It was contended in review that the judgment was erroneous in so far as it held that the horse and sleigh which collided with that of plaintiff, belonged to defendants, and was at the time of the accident, driven by their servant while in their employ, the proof, they contended, being that such horse and sleigh were not their property, and were at the time being driven by Alfred Cypiot, who, it was true, was in their employ, but was at the time absent from their service, and was so driving said horse and sleigh in and about his personal business and affairs.

TORRANCE, J. I find that though Cypiot was in the employ of the Laviolettes, he was not doing their work or employed by them at the time of the accident, but was driving a horse and sleigh which he had borrowed from Mrs. Thomas, the adjoining occupant, for his own affairs. This fact is proved without any doubt by Cypiot and by young Geo. Finch who gave him his mother's horse and sleigh. The ordinary rule cannot here apply which makes a master responsible for the negligence of his servant. We are all agreed that the action should be dismissed. The loss of the number on the horse which the policeman took possession of but lost, is to be regretted. It would have been a useful link to make clearer the evidence of proprietorship.

Judgment reversed.

Dunlop & Lyman, for plaintiff.

Doherty & Doherty, for defendants.

COURT OF REVIEW.

MONTREAL, November 30, 1883.

Before TORRANCE, DOHERTY & RAINVILLE, JJ.

LES RELIGIEUSES DE L'HOTEL-DIEU v. NELSON et vir, and NELSON et al. v. HARRISON, and HARRISON v. NELSON et vir.

Usufruct—Debt of estate—C. C. 474.

A usufructuary by general title is bound to contribute with the proprietor, out of a sum of ready money received from the estate, to pay a debt of the estate which became due after the testator's death.

The judgment under Review was rendered by the Superior Court, Montreal, Papineau, J., May 31, 1883.

The principal plaintiffs were creditors of the Estate Colin Campbell for $1,187. The principal defendants represented Campbell as *nus propriétaires* and Dame Sarah Harrison was usufructuary by universal title of one-half of the whole estate of Campbell. When Campbell died, he left in his estate a sum of ready money after payment of all debts then due (which was not the case with the present debt), and one-half of this ready money was paid over to the usufructuary Sarah Harrison. The present claim became due in 1880. Nelson et vir, being sued, sued in turn the usufructuary to have her condemned to pay out of the money received by her from the estate.

The latter contended, under C. C. 474, that an attempt was being made to compel her to advance her own moneys to pay the debts of

the estate. The Court below gave judgment in her favour.

Archibald, for Nelson et vir, argued that they had a right to compel her to bring forward a portion of the money in her hands belonging to the estate to pay her portion of the debt. He cited Proudhon, Salviat, Dalloz and Demolombe for the doctrine that both usufructuary and proprietor had the right to force the other to contribute to the payment of the debts out of the moneys in their hands of the estate; Proudhon, usufruit, Tome 4, No. 1898, 1902; Salviat, usufruit, p. 206, No. 3; 10 Demolombe, No. 541.

TORRANCE, J. I agree entirely with the elaborate argument of Mr. Archibald and would condemn the usufruct to contribute.

Judgment reversed.

Archibald & McCormick, for plff. en gar.
Doutre & Co., for deft. en gar.

SUPERIOR COURT.

MONTREAL, March 8, 1884.

Before TORRANCE, J.

STEPHEN et al. v. THE MONTREAL, PORTLAND & BOSTON RAILWAY COMPANY.

Company—Injunction to prevent annual meeting—Control of Shares.

The petitioners by agreement with B., a shareholder holding the majority of shares in a railroad company, obtained an option to acquire within two years certain proportions of B.'s interests, and in the meantime until such option was declared, B. was to hold his shares as trustee for the petitioners, but he reserved the right to vote on the shares. B., after obtaining large advances from petitioners, became insolvent and left Canada, and petitioners applied for an injunction to prevent the annual meeting on the ground that as they were precluded from voting by the reservation to B., the meeting of shareholders would be controlled by the minority, and they asked that the status quo be preserved until their option expired: Held, that the petitioners had not established a case justifying the interference of the Court, and the injunction was dissolved. Semble, that if the interests of shareholders or petitioners were jeopardized by the proceedings at the annual meeting, the Court pending suit might appoint a receiver or sequestrator to hold the company in the interest of all concerned.

The petition of George Stephen, Richard B. Angus, Duncan McIntyre, and Donald A. Smith, set forth that on the 14th July, 1882, Bradley Barlow was owner of 7,924 shares of the capital stock of the said company out of a total of 10,199 shares. That said Barlow then made an agreement with petitioners whereby he granted to them the right and option to acquire within two years one-third or two-thirds, at choice of petitioners, of such shares and other property and all railway interests of said Barlow as existing on 1st January, 1882, at the price of $1,250,000 for one-third, and at the same rate for two-thirds of said property. In order to secure said option to petitioners, Barlow bound himself not to transfer the said shares of said company during the period of said option, but Barlow should hold said shares as trustee for petitioners, Barlow reserving to himself the right to vote on all such shares till such transfer. That petitioners agreed to make advances upon notes of the South Eastern Railway Company in favour of Barlow, and guaranteed by him and bonds of this company to the amount par value of $1,250,000, on account of which advances had already been made to the amount of $150,000. That petitioners advanced to said Barlow under said agreement $1,400,000. That said option will not expire before 14th July, 1884; that all said shares held by said Barlow are pledged to said petitioners for repayment of said advances. That said M. P. & B. Railway Company have called a general meeting to be held on 16th January, 1884, to elect seven directors, and for transaction of other business. That said shares held by Barlow constitute more than eight-tenths of the entire capital stock of said M. P. & B. Railway Company, and Barlow has no interest therein or in said railway, but petitioners are the actual parties in interest as regards said shares pledged to them as to said option and said advances; that Barlow is insolvent and an absconding debtor from this province, and creditors have attached all railway shares held by him and said shares so pledged to petitioners, and he has no interest in controlling said shares or directing the affairs

of said company, and it will be in the power of a small minority of shareholders in said company, with or without the connivance of said Barlow, to obtain control of said company and deprive petitioners of their security. That petitioners are entitled to claim that no change be made in the position, status and management of said company different from that existing on the 1st January, 1882, and they are powerless to control said meeting of shareholders, although the chief party in interest, being precluded from voting by the reservation to said Barlow. Wherefore petitioners prayed that an injunction issue against the company, its officers and shareholders, enjoining them to appear, and that it be adjudged that petitioners are the chief parties interested so far as relates to 7,924 shares in the capital stock of said company, and that said company be restrained from holding said meeting of 16th January, 1884, or taking any proceeding to change the status or management of said company or its property previous to the 14th July, 1884, and until said seizures of shares be determined in due course, &c.

Bradley Barlow intervened in the cause on the 30th January, 1884, and set out the above recited agreement of 18th July, 1882, and went on to allege that he was ready to carry out the sale of one-third or two-thirds of the said property, but petitioners had not yet declared their option, and had no right to interfere with the petitioner in intervention, or to prevent him from voting, etc.; that said shares still remained in his hands; that he never pledged the shares of defendant, and petitioners have now no right to said shares and the intervener was the legal owner; that he was represented by his attorney, Albert B. Cross, who would have been prepared to vote at the annual meeting of the 16th January, 1884, prevented by this injunction; that intervener was owner of 8,147 shares of the stock of defendant; that Samuel Willett, a director, is holder of seventy shares acquired by intervener from Willett in January, 1883, and the other directors only hold ten shares each; that this injunction was applied for solely with the view of retaining control by the present directors of defendant and in the interest of petitioners and of the South Eastern Railroad, and for the purpose of defeating the rights of intervener and other creditors by preventing the annual meeting of the 16th January, 1884. Conclusions are accordingly.

John Cassie Hatton also intervened and presented a petition with similar conclusions as owner of 965 shares and 38 bonds.

PER CURIAM. The evidence shows that Barlow has over 7,000 shares, Hatton has 965 and 38 bonds. The petitioners have advanced $1,400,000 under the agreement set forth. There is no proof of Barlow's shares being pledged in the ordinary sense. The petitioners have no privilege or lien upon them. Barlow promised to hold them as trustee for petitioners, but specifically reserved the right of voting on them. He is insolvent and there are attachments out against him. The prayer of the petitioners is that the *status quo* be preserved till 14th July next. Should the Court grant this? See Kerr on Injunctions, edition of 1867, p. 541, cap. 23; *Featherstone* v. *Cooke*, 16 L. R., Equity Cases, p. 301, remarks of Malins, V. C. This case suggests what should be done here. If the meeting took place for the election of office-bearers, and they were elected, and mischief was apprehended, the court or judge pending suit might appoint a sequestrator who would hold for all. If Barlow were insolvent, petitioners would rank like ordinary creditors. The shares do not appear to be theirs, but the creditors' generally.

My conclusion is that it is not reasonable to tie the hands of all interested for six months to come from the mere apprehension that if the usual meeting took place something may be done disadvantageous to petitioners, who appear to be only ordinary creditors. The hands of one set of shareholders would be tied up for the advantage of another section. If there are contending interests, they will be preserved during the litigation by the appointment of a receiver or sequestrator, which will be fairer than the course now sought to be adopted. The petition will be dismissed, the interventions maintained, and the injunction dissolved.

O'Halloran, Q.C., for petitioners.
J. L. Morris, for intervener.
Geoffrion, counsel.

THE LATE SIR JOHN BYLES.

The celebrated author of "Byles on Bills," formerly a judge of the Court of Common Pleas, died on the 3rd of February. The *Law Journal* (London) says:—

"The career of Sir John Byles was that of a most successful advocate at the bar, and a very learned lawyer as barrister and judge in one branch of legal study. 'Byles on Bills' for accuracy and clearness is among the best law books in the English language. Lawyers and judges have for years turned to it for information with absolute confidence. It is not too much to say that without it the codification of the law of bills of exchange would have been impossible. Sir John Byles took an interest in this book up to a very few weeks before his death. A question whether its copyright had not been infringed was referred to him to decide whether any and what proceedings should be taken. We believe the matter was amicably arranged, but the incident is curious as showing that one of his last acts was in vindication of the book which in the future will be his chief title to fame. Sir John was thirty years of age before he was called to the bar, and up to that he had been in business. His business experiences, perhaps, suggested to him the production of a book on one of the most important branches of commercial law. The success of the book still further determined the bent of his legal studies and practice. He became a good commercial lawyer, but he never gained any great reputation in other branches of the law. His mind wanted that breadth and clearsightedness which are essential to the intellectual equipment of a great lawyer, who is to lay down propositions of universal application. He will never take the place filled by James, Willes or Jessel, but will always be known as Byles on Bills, a result to which the 'artful aid' of alliteration conduces. Many are the stories told of Sir John Byles when at the bar and on the bench. His horse figures in several of them. When he was at the bar he had a horse, or rather a pony, which used to arrive at King's Bench Walk every afternoon at three o'clock. Whatever his engagements, Mr. Byles would manage by hook or by crook to take a ride, generally to the Regent's Park and back, on this animal, the sorry appearance of which was the amusement of the Temple. This horse, it is said, was sometimes called 'Bill' to give opportunity for the combination 'there goes Byles on Bills;' but if tradition is to be believed, this was not the name by which its master knew it. He, or he and his clerk between them, called the horse 'Business;' and when a too curious client asked where the Serjeant was, the clerk answered with a clear conscience that he was 'out on Business.' When on the bench, Mr. Justice Byles' taste in horseflesh does not seem to have improved. It is related of him that in an argument upon section 17 of the Statute of Frauds he put to the counsel arguing a case, by way of illustration. 'Suppose Mr. So and So' he said, 'that I were to agree to sell you my horse, do you mean to say that I could not recover the price unless,' and so on. The illustration was so pointed that there was no way out of it but to say, 'My lord, the section applies only to things of the value of 10*l.*,' a retort which all who had ever seen the horse thoroughly appreciated. Instances of his astuteness in advocacy were numerous. His mode of winning cases was not by carrying juries with him by a storm of eloquence, or cross-examining witnesses out of court, but by discovering the weak point in his adversary's case and tripping him up, or by the nice conduct of such resources as his own case possessed. On one occassion he was retained for the defendant with Mr., afterward Mr. Justice, Willes, whom he led at the bar, but who was afterward his senior in the Court of Common Pleas, in a case of some complication tried before Chief Justice Jervis. At the end of the day (Saturday), Mr. Byles submitted that there was no case, and the judge rose to give his decision next week. In the interval Willes asked Byles why he did not take a particular point which both had agreed in consultation to be fatal to the plaintiff's case. 'I left that to the chief justice,' said Byles; 'I led up to it, and walked round it, so that he cannot miss it, but if I had taken it he would have decided against us at once.' And so it proved, for on Monday morning the chief justice gave an elaborate judgment overruling all the points

taken, but nonsuiting the plaintiff on a ground which he said he was astonished to find had not been taken by either of the very learned counsel for the defendant, but which in his opinion was conclusive. In another case Byles was for the plaintiff, and Edwin James for the defendant, in an action on a bond tried before Chief Justice Tindal. Byles was a long time in opening his case and examining his witnesses, until the chief justice became restless. Still more restless was Edwin James, who wanted to go elsewhere. Byles, seeing his impatience, whispered to him, 'give me judgment for the principal, and I will let you off the interest.' Accordingly a verdict was taken for the plaintiff for the amount of the bond without interest. Afterward Edwin James asked Byles why he had foregone the interest? 'You need only have put in the bond,' said he, 'and you would have had both.' 'That was just the difficulty,' said Byles, 'the bond was not in court.' In those days adjournments were not so easily granted as now, and in any case the costs of the day would have exceeded the interest. A reputation for successes like these made Byles a formidable adversary. On one occasion at Norwich he had for an opponent a counsel whose strong point was advocacy rather than law. Byles, who was for the defendant, went into the court before the Judge sat, and in the presence of his opponent he called to his clerk, 'What time does the midday train leave for London?' 'Half-past twelve, sir.' 'Then mind you have everything ready; and meet me in good time at my lodgings.' 'But, Serjeant,' said the plaintiff's counsel, 'this is a long case; it will last at least all day.' 'A long case!' said Byles; 'it will not last long; you are going to be non-suited.' The advocate, who stood much in awe of his opponent's legal skill and knowledge, spoke to his client. The result was that the case was settled for a moderate sum, and Mr. Byles caught his train.

Mr. Justice Byles was a strong Tory, and had a horror of Judicature Acts, the fusion of law and equity, and other modern innovations which were floating in the air in 1873. He declared that he would not remain an hour longer on the bench than his fifteen years. On the first day of Hilary Term, 1858, he took his seat on the bench of the Court of Common Pleas, and on the first day of Hilary, 1873, his resignation arrived. The moment was inconvenient for the appointment of a new judge, but the judge could not resign before, and he would not wait a moment. Of his career on the bench it is enough to say that he was acute, courteous, and upright, as he was kindly in private life. His name is not connected with many great decisions, but he took part in the case of *Chorlton* v. *Lings*, in which it was decided that women did not obtain Parliamentary votes by the representation of the people act, 1867, in virtue of the new franchise conferred on 'every man.' His judgment is an example of his rather quaint and old-fashioned judicial style. 'No doubt,' he says, 'the word man in a scientific treatise on zoology or fossil organic remains would include men, women and children as constituting the highest order of vertebrate animals. It is also used in an abstract and general sense in philosophical or religious disquisitions. But in almost every other connection the word man is used in contradistinction to women. * * * Women for centuries have always been considered legally incapable of voting for members of Parliament, as much so as of being themselves elected to serve as members. In addition to all which, we have the unanimous decision of the Scotch judges. And I trust their unanimous decision and our unanimous decision will forever exorcise and lay this ghost of a doubt, which ought never to have made its appearance.' The following anecdote is also floating around:—A learned counsel on one occasion was pleading a cause before Sir John Byles, and made a quotation from a work, 'which,' said he, 'I hold in my hand, and is commonly called 'Byles on Bills.' Sir John Byles: Does the learned author give any authority for that statement? Counsel, referring to the work: No, my lord, I cannot find that he does. Sir John Byles: Ah! then do not trust him; I know him well."